

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

UNITED STATES OF AMERICA

v.

DAVID ALCORN; AGHEE WILLIAM  
SMITH, II; and THOMAS L.  
BARNETT,

Defendants.

CRIMINAL ACTION NO.  
2:19cr47

TRANSCRIPT OF PROCEEDINGS  
(Status Conference)

Norfolk, Virginia

January 18, 2022

BEFORE: THE HONORABLE RAYMOND A. JACKSON  
United States District Judge

APPEARANCES:

UNITED STATES ATTORNEY'S OFFICE

By: Andrew C. Bosse  
Melissa E. O'Boyle  
Elizabeth M. Yusi  
Assistant United States Attorneys  
Counsel for the United States

RICHARD S. YAROW LLC

By: Richard S. Yarow  
Counsel for Defendant David Alcorn

1 APPEARANCES: (Continued)

2 FEDERAL PUBLIC DEFENDER'S OFFICE

3 By: Andrew W. Grindrod

4 Lindsay J. McCaslin

5 Assistant Federal Public Defenders

6 Counsel for Defendant Aghee William Smith, II

7 ANCHOR LEGAL GROUP, PLLC

8 By: Anthony M. Gantous

9 Counsel for Defendant Thomas L. Barnett

1 (Proceedings commenced at 11:01 a.m.)

2 THE CLERK: United States of America vs. David  
3 Alcorn, Aghee William Smith, II; and Thomas L. Barnett in  
4 Criminal Action 2:19cr47.

5 Mr. Bosse, is the government ready to proceed?

6 MR. BOSSE: The government is ready. Good morning,  
7 Your Honor.

8 THE COURT: Good morning.

9 THE CLERK: Are the defendants ready to proceed?

10 MR. YAROW: The defendant David Alcorn is ready to  
11 proceed, Your Honor. Good morning.

12 THE COURT: Good morning.

13 MR. GANTOUS: Good morning, Your Honor. On behalf  
14 of Thomas Barnett, we're ready to proceed.

15 MS. McCASLIN: Lindsay McCaslin and Andrew Grindrod  
16 are here to represent Aghee William Smith.

17 THE COURT: Okay. All right. Counsel, the Court  
18 had an opportunity to look at the strikes that you propose to  
19 make in this case, and the Court will start -- we'll go with  
20 looking at these strikes numerically because the Court has  
21 charted out all the strikes that you've made here so we can  
22 take a look at them on a one-by-one basis.

23 I will say to you that the Jurors 1 through 7, there  
24 was no proposed strike on Jurors 1 through 7, so we're going  
25 to start with Juror Number 8.

1 Both the government and Mr. Smith requested to  
2 strike Juror Number 8 for different reasons. Mr. Smith  
3 proposed to strike Juror Number 8 because Juror Number 8 had  
4 travel plans. And let me go back to the United States. The  
5 United States proposed the same thing.

6 Unless I hear an objection, we will strike Juror  
7 Number 8.

8 Juror Number 9, there were no proposed strikes.

9 Juror Number 10, both the United States and  
10 Mr. Alcorn proposed that we strike Juror Number 10.

11 The Court's view on this, the Court would not be  
12 inclined to strike this juror yet. When people tell the  
13 Court, well, I have a hard time sitting in judgment on  
14 somebody, the Court prefers that you tell the Court that you  
15 have a hard time sitting in judgment on somebody. It's too  
16 easy to say I can't really sit in judgment on anybody.  
17 That's been the Court's experience. So the Court is not  
18 inclined to make that strike now.

19 If it appears genuine after some inquiry, the Court  
20 will strike the juror. If not and it so happens that juror  
21 turns up on one of those -- on the list after we go through  
22 all the strikes for cause, then there's an opportunity for  
23 the parties, at least 10 to 20 peremptory strikes or more  
24 here, then someone can simply strike the juror, but not right  
25 now. So we're going to leave Juror Number 10 there.

1           Juror Number 11. I think, Mr. Smith, you proposed  
2 to strike that juror, and I'm trying to go back and see.  
3 That juror had some issues because someone had stolen  
4 something from him once before. He falls in the same  
5 category as the previous juror. The Court believes we should  
6 probe something like that before we simple strike them.

7           Yes, ma'am?

8           MS. McCASLIN: May I interrupt the Court, Your  
9 Honor?

10           Your Honor, this is more than just he was a victim  
11 of a theft. Many people are victims of theft, but he does  
12 say that he would like justice for those who are stolen from  
13 and the justice system failed him. And because of his work  
14 with prior inmates, he said they were all innocent, that they  
15 claimed that they were all innocent.

16           I think combining those together shows that he does  
17 have a bias and he would be -- he would not be able to  
18 impartially judge the evidence. He would be seeking a  
19 conviction because of his combined experience.

20           MR. BOSSE: If I could respond, Your Honor?

21           The fact that someone says that they would like  
22 justice for people who are stolen from is something that is  
23 almost a universally held concept in the United States. It  
24 doesn't say anything about whether the government has proved,  
25 which is the government's burden, whether anyone was stolen

1 from.

2 Secondly, a statement that the justice system failed  
3 them in the past, this is exactly the kind of thing that  
4 would need to be inquired about and could use a peremptory  
5 strike to address.

6 This isn't even close to the bar at a pre-voir dire  
7 stage. We're looking for people who essentially can't follow  
8 the Court's instructions or are unavailable physically for  
9 trial at this stage. I don't think this one comes close to  
10 that.

11 THE COURT: The Court has heard both counsel. The  
12 Court sticks with its initial view that we're not going to  
13 strike Juror Number 11 yet.

14 Mr. Smith has also made a motion to strike Juror  
15 Number 12, who said he would be out of work for no pay for a  
16 month since his position is based on attendance.

17 Now, the Court's view is that we don't require  
18 anybody to give up their sole source of income to do jury  
19 work. That being the case, if this is accurate and it's  
20 under oath, the Court would be inclined to excuse that juror  
21 from attendance, and that would, of course, be the Court's  
22 consistent view if it's a hardship situation.

23 MR. BOSSE: Yes, sir. For the government, we don't  
24 have any objection to striking this juror.

25 I do think, because a number of people have claimed

1 some kind of hardship, that we should have a nuanced view so  
2 people who are single versus married -- that sometimes is a  
3 difference, but this one does seem like a real hardship, and  
4 so we don't have any objection.

5 THE COURT: Well, the Court agrees as to the  
6 proposition if they are the sole source of income, that we're  
7 not going to strip away the sole source of income for them to  
8 do jury duty.

9 With that, we're moving right along.

10 No objections or strikes on Juror Number 13.

11 Number 14. Both the United States and Mr. Smith  
12 move that we strike that juror. That juror had preplanned  
13 business travel out of state and internationally. Work  
14 schedule in the month of February.

15 He also has another reason. The individual  
16 indicated, according to Mr. Smith here, that the defendant  
17 would have a problem with -- the juror would have a problem  
18 with the defendant not testifying and it not being held  
19 against him. So that would be a problem.

20 The Court will strike Juror Number 14.

21 There's an objection by Mr. Alcorn to Juror  
22 Number 16 -- wait a minute. Maybe I'm wrong.

23 MR. YAROW: Judge, I realize that in my numbering, I  
24 may have -- I may be one off on the numbers.

25 THE COURT: Well, because I don't see it -- maybe my

1 chart is wrong here. I don't see an objection on your  
2 pleading to Juror Number 16.

3 MR. BOSSE: It's there, Your Honor. He's objected  
4 to Number 16, and that tracks with our numbering also.

5 MR. YAROW: So this person said they may know  
6 Special Agent Jason Thomasson. I don't know who that is with  
7 the government or what their role is, but it's a government  
8 witness.

9 THE COURT: Well, we're going to have to wait to  
10 find out exactly what that is. So we're going to hold off on  
11 16.

12 17, no objection.

13 18, there are two objections, from the government  
14 and Mr. Smith. And the government says potential -- wait a  
15 minute. I think it was Mr. Alcorn, rather. No, I'm right;  
16 government and Mr. Smith have an objection to Juror Number 18  
17 on multiple bases. Where do we start?

18 All right. Mr. Bosse, if you want to start.

19 MR. BOSSE: So normally, Your Honor, we try to hold  
20 a pretty good line on these questions where they maybe  
21 misunderstand the law and they're not here in court to have  
22 it explained to them, but this person just struck us as  
23 someone who really didn't want to be here and just basically  
24 answered every single bias question in a way that is  
25 disturbing to the government and also to defense counsel.



1 I don't think there's any reason to bring this  
2 person in. I don't think they would be a good juror.

3 MS. McCASLIN: We agree, Your Honor.

4 THE COURT: I think the Court concurs, having read  
5 what this individual has to say. I don't know whether you  
6 could rehabilitate the individual if we brought him in here,  
7 to tell you the truth.

8 Next, Juror Number 19 has a scheduled vacation in  
9 February, and both the United States and Mr. Smith ask that  
10 this juror be excused.

11 The Court will excuse Juror Number 19 also.

12 Juror Number 20. Mr. Smith, you have asked that  
13 this particular juror be excused. And your reason?

14 MS. McCASLIN: Your Honor, we -- this juror does  
15 have biases that are already in place. The juror says that  
16 they have now formed an opinion after filling out this  
17 questionnaire, and they say in quotes, "I feel as though they  
18 were doing this with malicious intentions. What's right is  
19 right, what's wrong is wrong."

20 So this juror has already decided. When you combine  
21 that with some of their -- that was question number 70. When  
22 you combine it with a couple of the other questions, it's  
23 particularly biased and unconstitutional.

24 If you look at number 50, it says that she is unsure  
25 regarding the presumption of innocence and the burden of

1 proof, but below it, she writes or he writes, "I feel like  
2 they should have to prove they're innocent because if they  
3 know they're guilty but prosecutors" -- "because what if they  
4 know that they're guilty, but prosecutors can't prove it?"

5 And in that question, she's actually instructed on  
6 the law and is still saying that the defendant should have to  
7 prove that they're innocent.

8 Question 11 she also says, "Once I hear both sides,  
9 even if one thing leans me towards one side, I stay over  
10 there." And that would not reach beyond a reasonable doubt.

11 THE COURT: Any response?

12 MR. BOSSE: I mean, if this is the bar we're  
13 setting, we're okay with cutting this person. I don't think  
14 "Once I hear both sides, even if one thing leans me towards  
15 one side, I stay over there" -- I mean, that's too equivocal,  
16 and I think to cut her on that, that's the kind of thing that  
17 would need to be inquired on, but if we want to combine that  
18 with everything else including some concerns about income, I  
19 don't have any objection to cutting Juror 11.

20 THE COURT: This juror had multiple problems, and  
21 when the Court sees something like that, the question becomes  
22 to the Court what is the possibility we can rehabilitate the  
23 juror to the point we can say we can have a fair trial or  
24 whether we will be faced with it again on appeal if we keep  
25 the juror. So the Court would be inclined to strike the

1 juror.

2 Juror Number 21. I see that Mr. Smith has objected  
3 again.

4 MS. McCASLIN: Yes, Your Honor. For Juror 21, the  
5 juror does say that they take migraine medication that  
6 produces fatigue, foggy thinking, affects concentration,  
7 makes them confused, and creates the potential to not  
8 understand the case or to make incorrect judgments. That is  
9 looking at Questions 5 and 71.

10 The juror also says, in Question 32, when it asks do  
11 you have any strong opinions either for or against financial  
12 advisors or investment bankers, the juror checks "yes" and  
13 says that they do have some bias against financial advisors  
14 and investment bankers.

15 THE COURT: Well, the Court will not excuse the  
16 juror for the simple reason that the Court instructs the  
17 jurors. All jurors come to these cases with a bias.  
18 Everybody in here has a bias. The question is whether you're  
19 able to set aside your bias and to render a verdict based  
20 solely on the law and the facts given to you.

21 So we need to do some further inquiry on this juror.  
22 I do not wish to strike this juror at this time.

23 And another thing is this juror's name may not even  
24 come up in the 12 in the first place.

25 Numbers 22 through 27, there were no issues -- 28.

1           Number 29, I think you've challenged that juror  
2 also, Mr. Smith. You challenged that juror.

3           MS. McCASLIN: Your Honor, for 29, this was simply a  
4 hardship issue. He or she does say that they're a small  
5 business owner with only one other employee. It involves  
6 home building projects that would come to a complete halt  
7 causing breach of contracts.

8           MR. BOSSE: Judge, I have a note for 29 to inquire  
9 further. I think this is the person who says they supervise  
10 between 2 and 90 people.

11          THE COURT: 2 and 90?

12          MR. BOSSE: Did I have that one right?

13          MS. McCASLIN: Let me double-check.

14          THE COURT: If he supervises between 2 and 90  
15 people, the Court will not be --

16          MR. BOSSE: And it could be that it's a Grade A  
17 contractor where they're planning things out, but it's the  
18 kind of thing that I think we want to inquire about rather  
19 than cut them today.

20          MS. McCASLIN: Your Honor, this does say, "Do you  
21 supervise others?"

22                "Yes."

23                "How many?"

24                "2 to 90 on any given day."

25                Given that he is in home building, these are likely

1 to be roofers, construction workers, not somebody who can run  
2 the business.

3 THE COURT: The only issue with that is I think we  
4 need to do an inquiry because if he has 2 to 90, he has some  
5 foremen, or he has some supervisors on site that's doing some  
6 of this work. He's not doing it all. He's not supervising  
7 it all. He's supervising the supervisors. So we're going to  
8 hold off on that one.

9 Numbers 30 and 31, there are no issues.

10 There were challenges to 32 by the government and  
11 Mr. Smith. The commute would be two hours. There's two  
12 children to pick up and missing school. I don't know where  
13 that individual is coming from.

14 MR. BOSSE: It's an Eastern Shore juror, Your Honor.  
15 I don't think we should have a categorical rule, but this one  
16 seemed like a tough combination for an Eastern Shore juror.

17 THE COURT: Depending on where he is on the Eastern  
18 Shore, it's 100 miles to this Court. Depending on where  
19 you're coming from on the Eastern Shore, from the Maryland  
20 line to this court, it's about 100 miles or more. So the  
21 Court is inclined to strike Juror Number 32.

22 MS. McCASLIN: Yes, sir.

23 MR. BOSSE: Yes, sir.

24 THE COURT: No issues with Jurors 33 through 36.

25 Mr. Smith has an objection to Juror Number 37.

1 Self-employed as a Realtor, would not be able to work for  
2 four weeks, which would affect his income. "If I'm out of  
3 work for a month, I lose all pending contracts and in-process  
4 clients."

5 Does anyone have an objection to this one?

6 MR. BOSSE: We had this as someone that we want to  
7 inquire about. I mean, they are part of a two-income family,  
8 and I mean, I don't understand the specifics.

9 THE COURT: Well, the Court can inquire. If -- it  
10 doesn't tell us what his status is in terms of income or how  
11 much of the family's depending upon his contracts, but one  
12 thing is very clear, if you're a Realtor, you cannot be  
13 picking up contracts, executing contracts, and doing anything  
14 if you are absent for four weeks. So it's most likely he's  
15 going to end up being stricken anyway, but we'll hold on.

16 And with respect to all these no-shows -- we have a  
17 bunch of no-shows -- the Court is going to do a show cause  
18 ordering all the no-shows, so that is what is going to  
19 happen. They're not going to get a free ride out of here.

20 41 through 46, no objections, but I have two  
21 objections on number 47.

22 MS. McCASLIN: Your Honor, we do have objections for  
23 39 and 42.

24 THE COURT: 39 and 42?

25 MS. McCASLIN: Yes.

1 THE COURT: I see -- oh, you do. I missed those. I  
2 guess I'm just being hopeful.

3 39. Your objection is hardship?

4 MS. McCASLIN: Yes, hardship, Your Honor. They're  
5 in the Navy with very time-sensitive matters, the department  
6 is understaffed. And then he does say that he would rule in  
7 a case based on personal views.

8 THE COURT: I don't know what that means, but I do  
9 know this, the Navy also has other people who can step in  
10 when someone else falls in battle, out of line, so the Court  
11 wants to inquire on Number 39.

12 Number 42.

13 MS. McCASLIN: This is just a travel issue, Your  
14 Honor. We do understand that there aren't specific dates.  
15 So we understand if the Court wants to inquire, but they do  
16 say "I travel frequently and have a travel schedule through  
17 February."

18 THE COURT: And whether that's a certainty or not,  
19 so 42 is -- we'll skip.

20 Now we go back to 47. We have a number of these  
21 cases where people have indicated that they work as a teacher  
22 and substitutes are very hard to find right now. There's no  
23 substitute for coaches. And this individual said they would  
24 have a problem with defendant's choice not to testify.  
25 "Unsure if I would until it happens." There's a whole bunch

1 of stuff in here.

2 Back to the first issue. During COVID there is a  
3 problem finding teachers willing to teach. There's a problem  
4 finding substitutes, and so the question is whether we will,  
5 as we go through these proposed strikes, how we treat that  
6 issue, but the Court is very sensitive to the fact that it's  
7 a real issue with finding educators to function.

8 MR. BOSSE: Judge, I think the parties mostly  
9 agreed. Where we saw a teacher that said they had difficulty  
10 finding substitutes, I think across the board we generally  
11 moved to strike them, and I think this teacher falls into  
12 that category.

13 THE COURT: The Court will concur, and the Court  
14 will excuse this juror.

15 Now we go down to number 49. Runs own business and  
16 cannot be gone for four weeks. I don't know whether you have  
17 some more information on that, but that doesn't tell the  
18 Court enough.

19 MS. McCASLIN: Your Honor, this person does own  
20 their own business. It does look like they have quite a few  
21 employees. I don't have the exact number in front of me.  
22 They do say that there is not an employee with their skill  
23 set to perform their duties during a trial of four weeks or  
24 longer.

25 THE COURT: Yes, sir?



1 MR. BOSSE: There's 140 in all, and I'm sure they  
2 can cobble together enough skill sets.

3 THE COURT: Well, let's put it this way: The Court  
4 is going to find out whether there are some more skill sets,  
5 so we're going to hold off on number 49 until further  
6 inquiry.

7 MR. YAROW: Your Honor, I also lodged an objection  
8 to 49. I know the person personally, the family.

9 THE COURT: Do you have any relationship with the  
10 family other than knowing the family?

11 MR. YAROW: We belong to the same synagogue. I  
12 don't know this particular person, but I know the family  
13 quite well.

14 THE COURT: Okay. Well, we'll still leave him there  
15 for a while.

16 MR. YAROW: Thank you.

17 THE COURT: Number 50, no objections.

18 Number 51. Everyone objected to Number 51. The  
19 Court will concur with the objections. Number 51 is a nurse  
20 trying to function during the pandemic. They can't find  
21 enough nurses and professionals to deal with a lot of the  
22 issues we have, so we're not going to take one for a trial.

23 Number 53. Mr. Alcorn objects to Number 53.

24 MR. YAROW: The reason I have is cares for elderly  
25 parents.

1 THE COURT: What was this? She's a teacher and  
2 could be inadvertently exposed to COVID-19.

3 MR. YAROW: 53?

4 THE COURT: Oh, cares for elderly parents. Is that  
5 your reason?

6 MR. YAROW: That is my reason, yes, sir.

7 THE COURT: The Court wants to know more about that,  
8 so we're going to hold off on that one. I don't know whether  
9 she drops by during the day or whether this is a constant  
10 24-hour care or what.

11 54.

12 MR. BOSSE: Your Honor, I think you've already ruled  
13 on this issue. This is a pastor who said five times that he  
14 could not sit in judgment of other people.

15 My experience with that question on voir dire is  
16 that the Court will sometimes strike it if they repeatedly  
17 say that they just can't. You know, it's someone who  
18 believes their role as a leader of a religious organization  
19 prevents them from sitting in judgment. I promise I'll cut  
20 them anyway, but, you know, I think it's appropriate here.

21 If they can't even say that they can be -- the job  
22 of a juror is to be a judge, so it's not a question of  
23 whether or not they understand the law or not. They're  
24 saying they can't do the job they're being asked to do. But  
25 I understand. I'm fine either way.

1           THE COURT: What it boils down to is we will find  
2 out how serious this problem really is, so we'll leave that  
3 one there.

4           Number 55 is a teacher. Who objected to Number 55?  
5 That was Mr. Alcorn.

6           And, Mr. Alcorn, you objected on the grounds she's a  
7 teacher and does not want to miss a significant amount of  
8 work for a lengthy trial.

9           MR. YAROW: Your Honor, I generally objected to  
10 teachers and healthcare workers. There's just a shortage.  
11 It's difficult to fill those positions right now.

12           THE COURT: The Court, to be consistent, will excuse  
13 any teacher that we bring in here. That's just recognizing  
14 reality.

15           Number 56. Everyone seems to object to Number 56.  
16 That's another teacher.

17           THE CLERK: Judge, the reason you just read was for  
18 Juror Number 56, but you were talking about Juror Number 55.

19           THE COURT: Okay. Juror Number 55.

20           MR. BOSSE: Is Juror 55 stricken?

21           THE COURT: 55 is stricken, and 56 is stricken.

22           Next we go to Juror Number 60. Mr. Alcorn, you  
23 object to Juror Number 60. Her husband is a police officer.  
24 She stated she would give law enforcement testimony more  
25 credit.

1 MR. YAROW: She said she's biased.

2 THE COURT: What did you say?

3 MR. YAROW: She's claiming she's biased in favor of  
4 police officers.

5 MR. BOSSE: So, Your Honor, the first thing I think  
6 to say is luckily for Mr. Alcorn and Mr. Smith, I don't know  
7 that we're actually going to have any police officers  
8 testifying in this trial. There's going to be an FBI  
9 analyst. There may be a clean-up FBI witness, but this is  
10 not a typical drug and gun case where we have police officer  
11 after police officer testifying.

12 But in any event, I don't think that that one answer  
13 without further exploration is enough to cut at this pre-voir  
14 dire stage.

15 THE COURT: We will hold off on this one.

16 61. I think you also objected to 61, Mr. Alcorn.

17 MR. YAROW: Mr. Alcorn objects to 61. Again, the  
18 reason is they're a teacher -- actually, it's a teacher  
19 assistant and, also, in addition to that, the mild hearing  
20 loss. I'm not sure what exactly the mild hearing loss means,  
21 but if she cannot hear everything the witnesses testify to,  
22 particularly given the fact that the setup may make it more  
23 difficult...

24 THE COURT: 61 will be stricken.

25 MR. BOSSE: Well, that's the ruling, I guess. I did

1 want to say that this is one of the teachers who didn't  
2 indicate on the questionnaire any issues or concerns about  
3 coming in, and so neither we nor Mr. Smith suggested they be  
4 stricken. We moved to strike wherever they had any concerns  
5 with substitutes or any express concerns. I don't think this  
6 potential juror expressed any reservations other than the  
7 fact of her job.

8 THE COURT: Okay.

9 MR. GRINDROD: Your Honor, can I just -- I think we  
10 might be confusing 60 and 61.

11 THE COURT: I'm looking at 61 here.

12 MR. GRINDROD: Is 61 [REDACTED], Your Honor?

13 THE COURT: 61 is [REDACTED].

14 MR. GRINDROD: I think that [REDACTED] is actually the  
15 teacher's assistant, and [REDACTED] references being married to a  
16 teacher's assistant. I don't know if they're spouses. It  
17 would be quite a coincidence if they're not. But 60, I  
18 believe, is the actual person who's the teacher's assistant.

19 Is that your understanding, Mr. Bosse? I just want  
20 to make sure we're on the same page as to who's the teacher's  
21 assistant and who is married to a teacher's assistant. They  
22 have the same names, but I think [REDACTED] is the one who should  
23 be stricken on that basis.

24 MR. BOSSE: They are not married to each other. I  
25 don't think we have 61 downloaded. We can just fix this.

1 MR. GRINDROD: 61's answer to Question 26, if your  
2 spouse or nonmarital partner holds a job, yadda, yadda, and  
3 he lists teacher's assistant, spouse, retired June 2021.

4 [REDACTED] says in answer to Question 21, if you  
5 are currently employed in any capacity, please state it, and  
6 she says: Occupation, teacher's assistant, Virginia Beach  
7 Schools; and then type of work, teacher.

8 MR. BOSSE: Just so we have the record, what number  
9 is [REDACTED] in the top right?

10 MR. GRINDROD: [REDACTED] is Juror 60.

11 THE COURT: Well, the Court hasn't stricken 60. Did  
12 we?

13 MR. GRINDROD: No, Your Honor, but I think the  
14 confusion was that -- so on the juror bio form, 60 and 61 are  
15 inverted, and so I think we were, at times, referring to  
16 things that Juror 60, [REDACTED], said when we were  
17 talking about 61.

18 So for the record, Juror 60, [REDACTED] is both a  
19 teacher's assistant and is the person who said that they  
20 would favor law enforcement testimony, and so I think when we  
21 originally were talking about her, the issue of the teacher  
22 aspect of that was not -- had not been brought up.

23 THE COURT: Bottom line, though, we have not  
24 stricken Number 60 yet.

25 MR. GRINDROD: Correct.

1 THE COURT: And we're not striking 61.

2 MR. BOSSE: Thank you. So we're bringing both  
3 [REDACTED] in.

4 MR. GRINDROD: I just wanted to make sure we were  
5 talking about the right person.

6 MR. BOSSE: Yes, sir. Thank you.

7 THE COURT: The [REDACTED] we'll leave.

8 62. Mr. Alcorn, Number 62, you indicated that this  
9 juror indicates that the legal system does not protect  
10 everyone. This juror would give more weight to law  
11 enforcement testimony but with reservations.

12 MR. YAROW: Your Honor, it is possible -- I may be  
13 off by one number, so I do apologize. I think the last two  
14 people threw me off with my numbering. Is 62 [REDACTED]?

15 THE COURT: 62 is [REDACTED].

16 MR. YAROW: Okay. I'm not off, then. Good.

17 THE COURT: Well, this is a little bit on the vague  
18 side here, and the Court is not going to simply -- the legal  
19 system does not protect everyone. Everyone has a problem  
20 from time to time. The Innocence Project proves that. So  
21 the Court is not inclined to strike 62 yet.

22 MR. YAROW: Yes, sir.

23 THE COURT: Now, everyone wants to strike Number 63.  
24 The individual has a language barrier. And we don't know  
25 what's the scope of the language barrier, but it's a language

1 barrier, so the Court would be inclined to grant the request  
2 to excuse this juror.

3 64 through 68, no objections.

4 69. Mr. Alcorn raises an objection.

5 MR. YAROW: She's employed in the media or involved  
6 in the media. She's produced TV programs about white-collar  
7 crime in the past. It just struck a little too close to  
8 home. I don't know what these programs are but...

9 THE COURT: The Court doesn't believe that  
10 disqualifies her. She has to look past her occupation and  
11 any bias that she has, if she can do it, and serve. So the  
12 Court would not be inclined to strike that juror, Juror  
13 Number 69.

14 We turn to 70. Everyone agrees that 70 has prepaid  
15 plans to travel in mid-February, and she may know one  
16 government witness. We don't know which government witness  
17 that is, but we've excused folks who already have prepaid  
18 travel plans. So 70 is excused.

19 71. Mr. Alcorn, you challenge that one too.

20 MR. YAROW: She's been the victim of fraud. This is  
21 a fraud case. She may have a predisposition that is biased  
22 against the defendants.

23 THE COURT: Well, we need to ask her whether she has  
24 a predisposition because one of her friends was a victim of  
25 fraud, so we would not excuse Number 71.



1           Number 73. The government objects to Number 73  
2 because -- let's go back. 73 would have unusual financial  
3 hardship. So what is the scope of the unusual financial  
4 hardship, Mr. Bosse?

5           MR. BOSSE: So this person indicated they were a  
6 part-time student at ODU and a Grubhub driver and a single  
7 person. So it's a single person who's working as a Grubhub  
8 driver during the -- it seems like someone who falls in the  
9 category of unusual hardship. If they're a driver, that's  
10 their work.

11          THE COURT: And a student.

12          MR. BOSSE: Yes. Although I don't know that they  
13 indicated they actually would be -- I don't know that they  
14 gave a schedule or anything. It said part-time at ODU. But  
15 a part-time ODU student who's driving for Grubhub, probably  
16 it's going to be a hardship to be out for four weeks.

17          THE COURT: Well, let's find out what's the scope of  
18 their employment. Are they taking 14 credits or 3? They  
19 could just be taking 3 credits.

20          Number 75. Mr. Smith, you objected to Number 75.

21          MS. McCASLIN: Your Honor, this is a combination.  
22 The juror does indicate that they have viewed information  
23 about the case on television, read about it online, and read  
24 about it in the newspaper. The juror is scheduled to begin a  
25 brand-new job in February. And he also notes that his niece

1 is married to your nephew.

2 THE COURT: Oh, that one. The Court did a little  
3 inquiry and did come to find out that we have a niece in  
4 common. So I think we'll strike that one.

5 Number 77. Everybody wants Number 77 excused.  
6 They're traveling mid-February; an attorney who had worked  
7 with the Anchor Legal Group where a co-defendant's attorney  
8 practices. I don't know who that is but -- oh, Mr. Gantous.

9 MR. GANTOUS: That's right.

10 THE COURT: It may be a legitimate reason to strike  
11 them.

12 MR. GANTOUS: I don't know him personally. I talked  
13 to some of my partners about him, Your Honor, and apparently  
14 he's got an unfavorable view of some members of my firm, but  
15 the feeling was not mutual on our end, so take that for what  
16 it's worth, but I did not know this man at all.

17 THE COURT: We're going to strike Number 77. Excuse  
18 rather than strike. "Excuse" is a better word.

19 Number 81. The government and Mr. Alcorn want to  
20 remove 81 who attends college at Virginia Tech and will be  
21 returning January 18th. We usually excuse students. So  
22 Number 81, I think it's appropriate to excuse Number 81.

23 Okay. Let's go. Number 83. The government and  
24 Mr. Alcorn wishes to excuse Number 83. In-person teacher;  
25 could be inadvertently exposed to COVID. We have protocols

1 for that, but we've also said that we would not pull a  
2 teacher from the classroom to come in here when we're having  
3 a problem in society trying to find teachers to teach. So we  
4 will excuse Number 83.

5 The next one is Number 88. Mr. Alcorn objects to  
6 Number 88.

7 MR. YAROW: This person claims they own a farm and  
8 is solely responsible for over 200 animals. And there's  
9 more, but I'm more concerned with the farm.

10 THE COURT: The Court wants to know more about this  
11 farm. Are there any workers? They might be solely  
12 responsible for the farm but there's a bunch of folks working  
13 on the farm. So we need to find out more about this.

14 MR. YAROW: Yes, sir.

15 THE COURT: Number 91. Mr. Alcorn.

16 MR. YAROW: She's a teacher. I believe she's a  
17 teacher.

18 THE COURT: Let's go back. In-person teacher.  
19 Okay. We'll be consistent.

20 Number 93, both the United States and Mr. Alcorn  
21 wish to excuse. This is a public defender with a heavy  
22 caseload and knows many of the attorneys from the Public  
23 Defender's office; public defender to a public defender. Any  
24 objection?

25 MS. McCASLIN: We object, Your Honor. Mr. Grindrod

1 and I don't believe we know this person at all. They don't  
2 state who they know in the Federal Public Defender's office,  
3 and there are, no doubt, many other attorneys in the office  
4 that could help with that caseload.

5 THE COURT: Well, I think you raised a strike to  
6 Number 93. The Court has that you objected -- hold on.  
7 Let's see. Yeah, you indicated this was someone that you  
8 wished to have excused.

9 MS. McCASLIN: No, that was not ours. I believe  
10 Mr. Alcorn did. But we did not move to strike Number 93.

11 THE COURT: Well, I'm looking at the government's  
12 chart here. No, that was the United States. Sorry about  
13 that.

14 Mr. Bosse?

15 MR. BOSSE: Yes, sir. Just as if there were a  
16 Virginia Beach commonwealth attorney who knew many people in  
17 my office, I don't think we'd object to striking that person.  
18 They're claiming a heavy trial schedule, which certainly the  
19 state courts all have right now.

20 I mean, we're going to strike them anyway, but it  
21 seems unnecessary to bring them in if they're telling us they  
22 have a trial schedule that's heavy for the next month and  
23 they are a public defender who knows other people in the  
24 FPD's office.

25 THE COURT: That's true. The Court is going to

1 strike Number 93.

2 95. Only the government wishes to strike Number 95  
3 on the grounds of travel.

4 For work and potential bias.

5 Is there anything you wish to add to that?

6 MR. BOSSE: This person just evinced some  
7 uncomfortableness of serving, claimed work travel, new job.  
8 They just seem to have a constellation of difficulties, but  
9 I'm fine if you want to inquire. I don't have an issue about  
10 that.

11 THE COURT: The defendants have not objected to this  
12 individual. We need to know more about this work travel.  
13 Unfortunately, over the years, the government has had any  
14 number of jurors that just say, you know, I'm biased, and  
15 then when you probe, you find out they really just want to  
16 get out of jury duty. And that's awful, but that's a  
17 reality. So we'll ask some more questions about Number 95.

18 96, the United States objected to 96 on the grounds  
19 that it's a student.

20 MR. BOSSE: Yes, sir, Your Honor, and I can give  
21 some more information on that. We're the only movant on this  
22 juror, but this is a student who claims to have narcolepsy,  
23 also is unemployed, and is a TCC evening student. Now, that  
24 might not interfere with the Court's schedule, but the  
25 combination of narcolepsy, unemployment, and, I think,

1 looking for work seemed like a bad combination for a juror at  
2 this point.

3 THE COURT: The Court will be inclined to strike  
4 this student. The Court has had a few trials where  
5 individuals had narcolepsy or individuals who worked at night  
6 or did other things, and then daytime they were in here, and  
7 they did not fare very well. So the Court is going to strike  
8 this juror.

9 Everyone wants to strike Number 98. She's moving to  
10 Florida on February 3rd. I don't think she'll be around. So  
11 we'll strike Juror Number 98.

12 We next move to Juror Number 101 who has  
13 hearing-loss issues. How severe are these hearing-loss  
14 issues? Mr. Alcorn?

15 MR. YAROW: Your Honor, I'd be happy if we inquired  
16 how severe they are.

17 THE COURT: All right. Then we'll leave the  
18 question mark there.

19 Everyone moves to strike [REDACTED],  
20 Number 103. He says he owns his own business, and it would  
21 pose a financial hardship. He also has a mother in hospice  
22 that's declining rapidly. He had a few other issues here,  
23 too, regarding bias and difficulty following instructions.

24 I think ordinarily I said I'd bring anyone in who  
25 says they have a problem reaching a judgment about someone or

1 maybe a potential bias, but there's a combination of things  
2 here, I think, that makes him more difficult to rehabilitate,  
3 so the Court is inclined to strike Number 103.

4 Did I skip 99? I sure did. 99. Mr. Smith, you  
5 wanted to strike [REDACTED] because...

6 MS. McCASLIN: Your Honor, I believe this was just  
7 an abundance of caution because of the prepaid travel in  
8 early to mid-March, especially if there's any type of COVID  
9 issue in the middle of trial.

10 THE COURT: Well, let's hold on. Let's find out if  
11 this juror has any travel insurance.

12 104. Now, Mr. Alcorn and Mr. Smith both move to  
13 strike 104. Understands English with difficulty; hard time  
14 following the case since their vocabulary is very limited.  
15 Plus the juror failed to answer a number of questions on this  
16 questionnaire. The Court is inclined to strike Juror  
17 Number 104.

18 I don't know where all these strikes are leaving us.

19 MR. BOSSE: I stood up to agree, Judge. I wasn't  
20 trying to fight on that one.

21 THE COURT: You're wasting time if they don't  
22 understand you. Sometimes with good hearing they still don't  
23 understand you.

24 106. The government and Mr. Alcorn both object to  
25 106 on the grounds -- another -- he cannot sit in judgment of

1 others; small business hardship. The Court wants to know  
2 more about this sitting in judgment and this small business  
3 hardship on 106, counsel. So we're going to leave that one.

4 We next move down to 110. Mr. Alcorn, you objected  
5 to 110.

6 MR. YAROW: Your Honor, I think this juror is going  
7 to have a difficult time. It's hard to get caregivers right  
8 now.

9 THE COURT: She's a single mother of three having  
10 difficulty juggling the trial and caregivers. I don't know  
11 what the ages of the children are, but the Court is inclined  
12 to agree.

13 Mr. Bosse?

14 MR. BOSSE: No objection, Your Honor.

15 THE COURT: Ms. McCaslin?

16 MS. MCCASLIN: I'm sorry, Your Honor, are we on 110?

17 THE COURT: Number 110.

18 MS. MCCASLIN: We don't object.

19 THE COURT: Number 110 will be excused.

20 Number 111. The United States and Mr. Alcorn  
21 objected to Number 111. She would miss work, four to five  
22 weeks without compensation, and would be put under a  
23 financial hardship is the reason that this juror raises a  
24 question. We do not know whether she is the sole breadwinner  
25 or what, about this juror.



1 MR. BOSSE: Your Honor, the juror indicated she was  
2 single. She's a chef at The Stockpot restaurant. That's the  
3 combination of reasons that led us to move for a strike.

4 THE COURT: Any other objections? There are two.  
5 We will strike Juror Number 111.

6 113. Mr. Alcorn and Mr. Smith, you both objected to  
7 113. She has prepaid travel plans during the first week of  
8 February.

9 MR. BOSSE: We must have missed that. We don't  
10 object to that, if that's the case.

11 THE COURT: That was 113. Okay. 113 is stricken.

12 Number 116. Mr. Alcorn, you objected to 116 on the  
13 grounds that she is an in-person teacher assistant at K-5 and  
14 could be inadvertently exposed to COVID-19. And, once again,  
15 we have this issue of individuals trying to teach people  
16 during COVID-19.

17 MR. BOSSE: Judge, for 116 and the next one, 118,  
18 this is another group of two; neither of them indicated any  
19 hardship or difficulty with substitutes, and so we didn't  
20 make a motion for them.

21 THE COURT: They are teaching assistants also.

22 MR. BOSSE: They are both -- well, one is a teaching  
23 assistant, 116, and then the other one says a teaching  
24 specialist. All of the different area cities have different  
25 difficulty levels with teaching, so if they didn't indicate

1 difficulty, we didn't make a motion.

2 THE COURT: Here's what we can do. We can bring  
3 them in and find out the extent of the problem, and then  
4 we'll decide then whether we should strike them.

5 THE CLERK: Judge, 114.

6 THE COURT: I missed 114.

7 Number 114 is raised -- objections raised by  
8 Mr. Smith. Mr. Smith raised an objection to 114 on the  
9 grounds of hardship, anxiety disorder, problems with the law.

10 MR. BOSSE: We have no objection from the government  
11 to cutting this juror.

12 THE COURT: Do you have an objection, Mr. Alcorn?

13 MR. YAROW: No, sir.

14 THE COURT: I hope someone is left when we finish  
15 cutting here.

16 Number 116 and 118, we left those.

17 Number 120. Prepaid Caribbean cruise from  
18 February 18th to the 26th and potential hardship because of  
19 the working environment. The Court is going to strike  
20 Number 120.

21 122. Now, this individual indicates they're taking  
22 a business trip February 18th, 19th, 20th, and 21st. I think  
23 we need to make some inquiry about these business trips. Are  
24 these trips that can be deferred? Are these trips that  
25 somebody else can take? I just need more information on that

1 one, so we're going to have to defer Number 122.

2 124. 124, there's an objection by Mr. Alcorn.

3 MR. YAROW: Prepaid travel plans in February, Your  
4 Honor.

5 THE COURT: What time during February? The end of  
6 February or what?

7 MR. BOSSE: It's a Friday to Sunday, Your Honor, and  
8 that's why we didn't put him on our list.

9 THE COURT: Friday to Sunday. And what time in  
10 February?

11 MR. BOSSE: That's -- oh, February 18th to 20th; so  
12 Friday to Sunday. I don't know if we should cut that one.

13 THE COURT: I don't think we would strike this juror  
14 because, number one, the Court is trying to figure out  
15 whether it's going to follow its practice in this case. We  
16 have a four- or five-week trial. The Court usually kind of  
17 skips Fridays so that everybody can deal with some issues  
18 that they have, whether it be trial counsel or otherwise. So  
19 the Court is not going to excuse this one yet.

20 Number 126. Business travel through the next few  
21 months. That's very vague. So the Court is going to leave  
22 that one in here also. Further inquiry is necessary.

23 128 -- no, 129. Everyone objects to Number 129.  
24 She has significant difficulties with child care for the  
25 duration of the trial, might have a bias because her close

1 family friend went to prison for tax fraud and embezzlement.  
2 That alone would be insufficient. But she takes care of her  
3 nine-year-old son and her neighbor's children. She's  
4 juggling children here. 129, the Court will excuse 129.

5 130. Only Mr. Smith and Mr. Alcorn objected to 130.

6 MS. McCASLIN: Your Honor, for 130, this is a  
7 combination of a couple of different answers. One of them,  
8 question number 52 asks if this person would give more or  
9 less weight to the testimony of a law enforcement officer.  
10 The answer here is yes, no, or unsure. This person checked  
11 "yes" and then wrote "I would believe a police officer" and  
12 then further down said that if the law conflicts with their  
13 personal views, they would base their verdict on their  
14 personal views instead of the law.

15 There's also a potential conflict with them working  
16 as a stenographer and doing transcripts for cases; also  
17 worked with the Chesapeake Police Department. So that all  
18 goes into her -- his answer for number 52 as well.

19 THE COURT: What is the United States' position on  
20 this?

21 MR. BOSSE: This is a person who ought to be brought  
22 in and asked about the questions. It's not uncommon on  
23 question 52 to make that answer. A lot of lay people will  
24 say that about law enforcement and have not been instructed  
25 by the Court about how witnesses' credibility is weighed.

1           And as far as the transcript, if we find out that  
2 she did a transcript in this case -- I think that would be an  
3 impossibility, because we know all the court reporters who  
4 have worked on this case. So unless there's something  
5 else...

6           THE COURT: Ms. McCaslin, we'll make some inquiry.  
7 She may be gone -- once she answers the question, she may be  
8 gone anyway.

9           Now, it looks like everyone objected to [REDACTED],  
10 Number 131. She would be under significant financial  
11 hardship and also says she would be biased against the  
12 defendant. Single, self-employed. If she doesn't work, she  
13 doesn't have any income, can't pay her bills. That's her  
14 position.

15           The Court has no argument with that. She'll be  
16 excused.

17           Moving right along. The government has an objection  
18 to Number 133 on the grounds she has difficulty sitting in  
19 judgment of others. The Court wants to know just how  
20 difficult is it for her to sit in judgment on others, and so  
21 the Court would be inclined to bring her on in, Mr. Bosse,  
22 and see what she has to say about that.

23           MR. BOSSE: Yes, sir.

24           THE COURT: Number 134 says she has difficulty  
25 finding a caregiver for her father because she is the

1 caregiver for her father, elderly father.

2 MR. YAROW: And she also says she's unable to make  
3 other arrangements.

4 THE COURT: What's your position, Ms. McCaslin?

5 MS. McCASLIN: We do object, Your Honor.

6 THE COURT: When you say you object, what do you  
7 mean?

8 MS. McCASLIN: Your Honor, we would like additional  
9 information from this juror.

10 THE COURT: All right. Do you concur with that,  
11 Mr. Bosse?

12 MR. BOSSE: Yes, sir, Your Honor.

13 THE COURT: We'll have her come in and find out what  
14 she has.

15 We move now to 142 where the government and  
16 Mr. Alcorn objects to [REDACTED], Number 142. The  
17 government says it's a financial hardship and potential bias.  
18 Mr. Alcorn says she stated it would be difficult not to hold  
19 a police officer's testimony to a higher standard than other  
20 witnesses. Now, which is the most compelling here? The  
21 financial hardship? I guess it's a combination of both here.

22 MR. BOSSE: Your Honor, this is the juror who  
23 indicated they're raising funds to go on a missionary trip.  
24 If the Court or counsel thinks they should come in for  
25 questioning, I don't have any objection to that, but it just

1     seemed like a strange combination, that and then the bias  
2     response as well.

3             MS. McCASLIN: Your Honor, we would ask for this  
4     juror to come in. We don't quite understand how they raise  
5     money as a missionary, if that can be done outside of 9:00 to  
6     5:00, if that's done just through the church on a regular  
7     basis anyway. We think we need more information.

8             THE COURT: And the Court would like to know what  
9     she means by she's holding the police officer's testimony to  
10    a higher standard than other witnesses. That's the first  
11    time I've heard that one. So we're going to have Number 142  
12    come in.

13            143. Mr. Alcorn and Mr. Smith both objected to that  
14    particular juror. That is [REDACTED]. He lives paycheck  
15    to paycheck. This trial would put him under significant  
16    financial strain. There's a lot of people that live paycheck  
17    to paycheck. He didn't say he can't get paid if he doesn't  
18    work.

19            Is there something else there that would further  
20    explain your objection to [REDACTED], Mr. Smith and  
21    Mr. Alcorn?

22            MS. McCASLIN: Your Honor, we do have a couple other  
23    issues to raise with the Court. In addition to living week  
24    to week, this juror says that they're having 13 teeth pulled  
25    on January 27th, so they are likely to be medicated starting

1 on February 1st still.

2           There's also some bias and constitutional issues.  
3 When asked -- when instructed that the defendant has no  
4 obligation to testify and that jurors cannot draw any  
5 conclusions, he said that he would have an issue with that  
6 and asked why would he not tell his side to the Court; so  
7 stating that he has a problem following the Fifth Amendment.

8           Further, he is willing to convict. He's unsure  
9 about voting not guilty. And that obviously violates the  
10 presumption of innocence. So given that combination, we  
11 would move to strike.

12           MR. BOSSE: If he's having 13 teeth pulled, I'm okay  
13 with -- yeah, I agree. I don't have any objection to that.

14           THE COURT: 13 teeth?

15           MR. BOSSE: That's a lot of teeth.

16           THE COURT: The Court will excuse this juror. He'll  
17 probably be medicated every day. That was Number 142. Well,  
18 that's the -- no, 143. Wait a minute. Which one was it?

19           MR. YAROW: I think the Court just struck 143.

20           THE COURT: I struck 142.

21           MS. McCASLIN: No, that was 143, Your Honor.

22           THE COURT: That was 143. Okay. So we struck 143,  
23 not 142.

24           MS. McCASLIN: Correct.

25           THE COURT: Those were the last objections the Court



1 had to this panel here. I don't know where this leaves us  
2 here. We can try to go back and see if we can do a brief  
3 calculation of how many strikes we made.

4 THE CLERK: Do you want me to read them out?

5 THE COURT: Yeah. So we can be consistent and be  
6 sure, start with Number 1, the first strike, the first  
7 excused, and she's going to walk through them and see if it's  
8 consistent with what you have.

9 THE CLERK: The following jurors have been stricken  
10 for cause:

11 Juror Number 8, Juror Number 14 -- I'm sorry.

12 Juror Number 8, Juror Number 12, Juror Number 14,  
13 Juror Number 18, Juror Number 19, Juror Number 20, Juror  
14 Number 47, Juror Number 51, Juror Number 55, Juror Number 56,  
15 Juror Number 63, Juror Number 70, Juror Number 75, Juror  
16 Number 77, Juror Number 81, Juror Number 83, Juror Number 91,  
17 Juror Number 93, Juror Number 96, Juror Number 98, Juror  
18 Number 103, Juror Number 104, Juror Number 110, Juror  
19 Number 111, Juror Number 113, Juror Number 114, Juror  
20 Number 120, Juror Number 129, Juror Number 131, and Juror  
21 Number 143.

22 THE COURT: I think you need to go back and check on  
23 Juror Number 32 and 61.

24 THE CLERK: Juror Number 32, and I do not have Juror  
25 Number 61.

1 THE COURT: You don't have 32 stricken?

2 THE CLERK: I do, yes, sir.

3 THE COURT: You don't have 61 stricken?

4 THE CLERK: Correct.

5 THE COURT: That was [REDACTED]. I thought we  
6 struck them.

7 MR. BOSSE: We were going to bring both of the  
8 [REDACTED] in. This is where they were transposed, 60 and 61.

9 THE COURT: Oh, okay.

10 MR. BOSSE: We were going to bring them both in.

11 THE COURT: The Court stands corrected. That's  
12 correct. So how many total strikes is that?

13 THE CLERK: 31.

14 THE COURT: So that leaves us with...

15 THE CLERK: 105.

16 THE COURT: That's enough to make it.

17 Okay, counsel. We have 105 left here. We should  
18 have enough to come in and take the strikes that we're  
19 supposed to be taking. What the Court is trying to pick is  
20 18 jurors. We're going to take 12 plus 6 alternates. That's  
21 18.

22 And I gave each defendant two extra strikes. So  
23 defendants have 14, and the government has eight. So that's  
24 22 strikes between both parties, the government and -- there  
25 will be 24 peremptory strikes after we go through strikes for

1 cause in here, so I think that will leave us with enough to  
2 get where we need to go. Assuming nothing happens between  
3 now and February 1st, we intend to move on.

4 Any questions?

5 Okay. Now, regarding the outstanding motions, the  
6 Court will deal with these motions before the trial begins.  
7 Some of these motions will be moot. Some of them have  
8 already been dealt with, but the docket hammers have not been  
9 removed on some of these motions.

10 And I think by virtue of the fact that there may be  
11 only two defendants in this courtroom would deal with a  
12 couple of issues that we have in this case.

13 And, also, I think we've dealt with some of the  
14 concerns raised about the configuration of the Court. The  
15 Court had photographs of the Court taken. They will be in  
16 the record for any potential appellate purposes. So that's  
17 been taken care of. So a lot of the motions raised have been  
18 addressed.

19 Some of the motions, the Court has to wait until we  
20 get to trial to figure out the context within which some of  
21 these motions are raised, to find out whether they should be  
22 granted or not granted. A lot of them are appropriate  
23 questions for the parties anyway the closer we get. That's  
24 the only thing I would say.

25 Now, the other thing I want to know is this.

1 Mr. Bosse, how many witnesses are you contemplating right now  
2 the government may call?

3 MR. BOSSE: Your Honor, we're going off of memory  
4 here. We're going to send a supplemental witness list in.  
5 We've added two witnesses, but we've also been able to  
6 remove, I think, about nine witnesses because of  
7 Mr. Barnett's impending plea.

8 The estimate, without having it in front of us, I  
9 think we have between 50 and 60. Some of them will be short.  
10 And as we move through the trial, the number might drop. I  
11 hope it does.

12 THE COURT: Oh, I'm sure it will.

13 MR. BOSSE: I have a feeling it will. But that's  
14 where we are right now.

15 THE COURT: And I won't even say to the defendants  
16 how many you're calling because you may not know. Or do you  
17 know?

18 MS. McCASLIN: Your Honor, for the most part, our  
19 number is unchanged. I don't know what the exact number of  
20 witnesses is. It is not very lengthy. We did get rid of one  
21 of our witnesses, which we already notified the government  
22 and the parties about.

23 MR. YAROW: Your Honor, I think I have five or six  
24 witnesses. I don't expect any of my witnesses to be terribly  
25 lengthy.

1           THE COURT: Okay. All right. That being the case,  
2 that's all we have for now. The Court will be in touch with  
3 you as things evolve, and I'm sure they will evolve. But if  
4 you do not wish to see this judge again on this case, that's  
5 fine. You know what that means, don't you? If you decide  
6 that you do not want to come to trial, you can work on other  
7 things, and that's fine.

8           All right. Hearing nothing else, the Court will be  
9 in recess until further notice.

10           (Proceedings adjourned at 12:12 p.m.)

11  
12                           CERTIFICATION

13  
14           I certify that the foregoing is a correct transcript  
15 from the record of proceedings in the above-entitled matter.

16  
17  
18                           \_\_\_\_\_/s/\_\_\_\_\_  
19

20                           Carol L. Naughton

21                           October 27, 2022  
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